

ENOCH SEMINAR *online*

International Scholarship on Second Temple Judaism

Christian, Rabbinic, and Islamic Origins

Founding Director: Gabriele Boccaccini, University of Michigan

Vice-directors: Esther Eshel, Bar-Ilan University and Loren Stuckenbruck, University of Munich



[HOME](#) [FORUMS](#) [ENOCH SEMINARS](#) [ENOCH GRADUATE SEMINARS](#) [NANGERONI MEETINGS](#) [REVIEWS](#) [NEWS](#)

Alessandro Nangeroni International Endowment presso l'Enoch Seminar The first Nangeroni Meeting will take place in 2013

External Links



4 Enoch: The Online
Encyclopedia of Second Temple
Judaism

User login

Username *

Password *

[Create new account](#)

[Request new password](#)



RES 2012.09.03 Legal Fictions (Fraade)

Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarrians and Sages

Author: Steven D. Fraade

Place of Publication: Leiden

Publisher: Brill

Year: 2011

Series: Supplements to the Journal for the Study of Judaism

Series Volume: 147

ISBN: 9789004201095

Price: \$251

The twenty-five chapters of this book collect a sizeable portion of Steven Fraade's prolific scholarly output from 1993 to the current decade. The volume is broad in scope and rich in detail, featuring scores of analyses of particular passages from the Dead Sea Scrolls, rabbinic corpus, and other ancient Jewish literature. There are also discussions about the philosophies Fraade employs in his pursuit of the meaning of these texts. Despite its breadth, and the fact that it is a compilation, two factors give a great degree of cohesiveness to the book as a whole. On the surface level, the indices, cross references, and inclusion of bookend chapters (an introduction and afterword) are well done, and help to unify the book. On a deeper level, it is clear that Fraade has been remarkably consistent in pursuing a particular set of problems over the years, and this lends a feeling of intellectual orderliness to the collection.

Though first and foremost a book about methodology and hermeneutics, it would not be impossible for readers to mistake it as a compilation of exegetical summaries (this is a consequence of Fraade's preference for microhistory). This would be unfortunate. The exegetical portions, of which there are many, are really exemplifications of *method*; taken together, they serve as an "apprenticeship" in Fraade's method of interpretation.

The first section, "Introduction/Retrospective," is made up of two essays, which function as a methodological and philosophical prelude to the book. Chapter 1, "Introduction: Of Legal Fictions and Narrative Worlds," explains why Fraade has preferred to present his material in the form of "anecdotal microhistorics" rather than in monograph form.



Alessandro
Nangeroni



Michigan
Early Church



Near the
Temple

(pp. 4–11, 15). He also explains the book's title, which indicates a vital connection between narrative ("fiction") and law. This law/narrative connection is greatly expanded upon in the next essay, "Nomos and Narrative Before 'Nomos and Narrative'" (ch. 2), which acknowledges its debt to Robert Cover's erudite essay. Law and narrative are envisioned as interrelated aspects within the rhetoric of a culture. Narrative might come to prescribe reality, or law might imply a particular kind of narrative history. Starting from this premise, Fraade isolates and describes phenomena that occur in the wake of alterations to a narrative, the transference of laws from one literary form to another, or efforts to claim application in the interest of a contemporary problem. Interpreters (e.g., Josephus, pp. 23–24) or interpretive communities who distinguished between laws and their narrative settings essentially "re-narrativized" the law (p. 33). Such literary renovations affect a text's function in social, cultic, and other spheres. This is the issue that Fraade pursues, in one form or another, in most of the essays included in the volume.

The three major sections that follow divide the bulk of the book's chapters into studies on the Dead Sea Scrolls (Section II); the Dead Sea Scrolls and Rabbinic Literature in comparison (Section III); and Rabbinic Literature (Section IV). Overall, the groupings reflect their stated contents well, yet the breadth and complexity of the material prevent the divisions from being absolute. Thus, for instance, a reader interested in Fraade's method of comparative criticism should not limit themselves to the third division alone, since one finds excellent comparative discussions throughout (e.g., the conclusion to the third chapter, pp. 62–67).

Section II, which is comprised of three essays on the Dead Sea Scrolls, is primarily interested in the intersection of authority and interpretation within the Qumran community. Chapter 3, "Interpretive Authority in the Studying Community at Qumran," views scriptural authority and ongoing revelation as being derived through the study and performance of the community as a whole. A large portion of "To Whom It May Concern: *Miqsat Ma'aseh Ha-Torah* (4QMMT) and Its Addressee(s)" (ch. 4) is devoted to reasons why 4QMMT should be read as "intramural parenthesis" (p. 91), but the final concern has to do with the centrality of the text to the identity of the community. The final chapter in this section, "Rhetoric and Hermeneutics in *Miqsat Ma'aseh Ha-Torah* (4QMMT): The Case of the Blessings and Curses," advances these arguments even further, and concludes that 4QMMT (as received) reinterprets the blessings and curses of Deuteronomy 33/38 in a way that was uniquely fitting for the Qumran community as the remnant for the last days.

Part III is "Comparative: Dead Sea Scrolls and Rabbinic Literature," and occupies nine chapters of the book (chs. 6–14). Comparisons of the Dead Sea Scrolls and rabbinic literature might conjure up the idea of sensational possibilities, but Fraade's methods yield sparse, responsible results. These results reconstruct the discursive world, which Fraade in turn uses as a heuristic tool for inferring historical possibilities.

Chapter 5, "The Dead Sea Scrolls and Rabbinic Judaism after Sixty (Plus) Years: Retrospect and Prospect," is a survey of scholarship into the Scrolls, plus suggestions for doing responsible comparative work (especially pp. 121–23). The bulk of "Qumran *Yabam* and Rabbinic *Bayurim*: A Comparison Reconsidered" (ch. 7) is also a survey of scholarship, along with a determination that there is no real relationship

between the communities discussed.

Chapters 8-9 compare rabbinic legal and narrative midrash with potentially similar genres from Qumran. Fraade sees the interpretive strategy of the Dead Sea Scrolls as having projected the authority of the biblical text from the past and into the present, whereas the rabbinic interpretive strategy drew the reader from the present and back into the text's past (181-82, 192). These reading strategies are related to each community's sense of social location within Israel and placement in time (historical/eschatological).

Chapters 10-12 and 14 proceed along similar lines with different particulars—they explore interpretive strategies, transformational readings, and performative functions of texts. The same is also true of "Theory, Practice, and Polemic in Ancient Jewish Calendars" (ch. 13), but this essay stands out from its companions due to a broadened text base (e.g., Jubilees and Enochic literature), and the discussion of how calendars and time intersect with law and narrative.

Section IV is the longest division of the book, and its ten chapters deal with a broad range of rabbinic literature (special attention is given to the Tannaitic corpora). However, the methods and concepts are consistent with what has already been discussed above, and in the context of the volume, these broader concerns subsume the particulars. Chapters 16, 18, and 19 are especially given to the interpretation of texts with an eye to "nomos and narrative."

Several essays—chapters 13, 14, 15, and 24—are especially interested in how the rabbinic movement may have sought social standing and authority. I will survey these together rather than in their arrangement in the book. Chapter 10 (found in the third section) is primarily about the hermeneutical shifts that permitted authority to gradually transfer from priestly to non-priestly hands, and concludes that *some* relationship (albeit tenuous, uncertain, and non-linear) might have stood between Qumran and the rabbis. In "The Torah of the King' (Deut 17:14-12) in the Temple Scroll and Early Rabbinic Law" (ch. 14) and its companion essay, "Priests, Kings, and Patriarchs: *Yerushalmi Sanhedrin* in Its Exegetical and Cultural Settings" (ch. 15), Fraade describes the honor given to the office of the king, despite the biblical text's apparently conflicted view of kingship. He then demonstrates that the same honor was (in concept at least) passed on to the patriarch. The issue of the *parnas* is raised here as well (pp. 311-12, 338). This term is given its own careful consideration in chapter 24, "Local Jewish Leadership in Roman Palestine: The Case of the *Parnas* in Early Rabbinic Sources in Light of Extra-Rabbinic Evidence," where Fraade sees the rabbis as neither dominant nor marginalized, but eager for superiority. Taken together, these essays paint a portrait of a rabbinic community vying for authority within a broader social and religious context (about which we know little), and doing so by recasting texts and traditions in a way that authenticated the interpretation and the interpreter.

Chapter 17, "Literary and Oral Performance in Early Midrashim," attempts to clarify the "circulatory" relationship between oral and written "texts." Though the discussion relates to midrashim, the essay has immediate application to a broader array of rabbinic (and other) texts. Anyone who puzzles over the dialectic between spoken and written transmission in ancient religious corpora will benefit from the chapter.

A number of essays are deeply invested in questions about what influences Christian or “pagan” Greco-Roman worship might have exercised upon Judaism. In chapter 20, “Rabbinic Polysemy and Pluralism Revisited: Between Praxis and Thematization,” Fraade takes a dim view of Daniel Boyarin’s theory about late-developing rabbinic multivocality (in parallel to post-Nicene Christianity). Fraade locates a degree of multivocality in the Tannaitic period, which leads him to conclude that the Amoraim did not “invent” interpretive polysemy (though they certainly amplified upon it, pp. 472-75). Next, chapter 21 investigates how Moses’ role at Sinai is received in rabbinic literature. He concludes that “Moses and...his human (rabbinic) successors are divinely authorized and trusted *both* to transmit and to transform received revelation” (493). He considers it likelier that earlier Judaism might have influenced Christianity than the other way around. In chapter 22, “Hearing and Seeing at Sinai,” Fraade looks to the popularity of iconography as one of the reasons why sight is emphasized as the apprehending bodily sense (p. 521). In “The Temple as Marker of Jewish Identity Before and After 70 C.E.: The Role of the Holy Vessels in Rabbinic Memory and Imagination” (ch. 23), Fraade finds similar influences responsible for the later democratizing of temple symbols that had originally been kept from public view when the temple stood (see esp. pp. 544-54).

On the whole, the book is user-friendly. For each case study, Hebrew text and English translation both appear in the body of the article. Most of the essays share a similar structure: an introduction to a specific problem in scholarship; careful exegesis of texts; and conclusions that relate both to the immediate problem and to the broader issues the book addresses. A degree of repetitiveness is unavoidable, but there are only a few cases in which identical sentences or paragraphs appear in more than one chapter (especially chs. 14 and 15).

In conclusion, the book delivers excellent material for the consideration of those who study the Dead Sea Scrolls, early rabbinic literature, and any of the religious communities contemporary with them. The volume is marked by its academic sincerity, utter lack of sensationalism, and methodological consistency from beginning to end. These features amply compensate for any occasions where one might disagree with Fraade’s specific conclusions on a matter. As a model expedition into the “discursive worlds” of ancient texts, the volume should be welcomed by scholars and serious students.

Jonathan Henry, Princeton Theological Seminary, United States

[Log in to register your comments.](#)